

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING RULE 71 §
OF THE RULES OF THE DELAWARE §
SUPREME COURT §

Before **VEASEY**, Chief Justice, **HOLLAND**, **BERGER**, **STEELE**,
and **JACOBS**, Justices, constituting the Court *en banc*.

ORDER

This 22nd day of December 2003, it appears to the Court that it is
desirable to amend Rule 71 of the Rules of the Delaware Supreme Court.

NOW, THEREFORE, IT IS ORDERED that the following changes
shall be effective immediately:

(1) Paragraph (b)(ii) of Rule 71 shall be amended to delete the
phrase, “Statement of Principles of Lawyer Conduct,” and to insert the
phrase, “Principles of Professionalism for Delaware Lawyers.”

(2) The Delaware State Bar Association Statement of Principles of
Lawyer Conduct, which are appended to Supreme Court Rule 71, shall be
deleted in their entirety and shall be replaced with the following Principles
of Professionalism for Delaware Lawyers:

PRINCIPLES OF PROFESSIONALISM FOR DELAWARE
LAWYERS

The Delaware State Bar Association and the Delaware Supreme
Court have jointly adopted the Principles of Professionalism for
Delaware Lawyers for the guidance of Delaware lawyers, effective
November 1, 2003. These Principles replace and supersede the

Statement of Principles of Lawyer Conduct adopted by the Delaware State Bar Association on November 15, 1991. They are not intended, nor should they be construed, as establishing any minimum standards of professional care or competence, or as altering a lawyer's responsibilities under the Delaware Lawyers' Rules of Professional Conduct. These Principles shall not be used as a basis for litigation, lawyer discipline or sanctions. The purpose of adopting the Principles is to promote and foster the ideals of professional courtesy, civility, conduct and cooperation. These Principles are fundamental to the functioning of our system of justice and public confidence in that system.

PRINCIPLES

A. ***In general.*** A lawyer should develop and maintain the qualities of integrity, compassion, learning, civility, diligence and public service that mark the most admired members of our profession. A lawyer should provide an example to the community in these qualities and should not be satisfied with minimal compliance with the mandatory rules governing professional conduct. These qualities apply both to office practice and to litigation. A lawyer should be mindful of the need to protect the standing of the legal profession in the view of the public and should bring these Principles to the attention of other lawyers when appropriate.

1. **Integrity.** Personal integrity is the most important quality in a lawyer. A lawyer's integrity requires personal conduct that does not impair the rendering of professional service of the highest skill and ability; acting with candor; preserving confidences; treating others with respect; and acting with conviction and courage in advocating a lawful cause. Candor requires both the expression of the truth and the refusal to mislead others in speech and demeanor.

2. **Compassion.** Compassion requires respect for the personal dignity of all persons. In that connection, a lawyer should treat all persons, including adverse lawyers and parties, fairly and equitably and refrain from acting upon or manifesting racial, gender or other bias or prejudice toward any participant in the legal process.

3. **Learning.** A lawyer's commitment to learning involves academic study in the law followed by continual individual research and investigation in those fields in which the lawyer offers legal services to the public.

4. **Civility.** Professional civility is conduct that shows respect not only for the courts and colleagues, but also for all people encountered in practice. Respect requires promptness in meeting appointments, consideration of the schedules and commitments of others, adherence to commitments whether made orally or in writing, promptness in returning telephone calls and responding to communications, and avoidance of verbal intemperance and personal attacks. A lawyer should not communicate with a Court* concerning pending or prospective litigation without reasonable notice whenever possible to all affected parties. Respect for the Court requires careful preparation of matters to be presented; clear, succinct, and candid oral and written communications; acceptance of rulings of the Court, subject to appropriate review; emotional self-control; the absence of scorn and superiority in words or demeanor; observance of local practice and custom as to the manner of addressing the Court; and appropriate dress in all Court proceedings. A lawyer should represent a client with vigor, dedication and commitment. Such representation, however, does not justify conduct that unnecessarily delays matters, or is abusive, rude or disrespectful. A lawyer should recognize that such conduct may be detrimental to a client's interests and contrary to the administration of justice.

5. **Diligence.** A lawyer should expend the time, effort, and energy required to master the facts and law presented by each professional task.

6. **Public service.** A lawyer should assist and substantially participate in civic, educational and charitable organizations. A lawyer should render substantial professional services on a charitable, or pro bono publico, basis on behalf of those persons who cannot afford adequate legal assistance.

* As used in these Principles, "Court" includes not only state and federal courts, but also other tribunals performing an adjudicatory function including administrative hearing panels and boards as well as arbitration tribunals.

B. ***Conduct of Litigation.*** In dealing with opposing counsel, adverse parties, judges, court personnel and other participants in the legal process, a lawyer should strive to make our system of justice work fairly and efficiently. A lawyer should avoid conduct that undermines the judicial system or the public's confidence in it, as a truth-seeking process for resolving disputes in a rational, amicable and efficient way.

1. **Responsible choice of forum.** Before choosing a forum, a lawyer should review with the client all alternatives, including alternate methods of dispute resolution. A lawyer should not file or defend a suit or an administrative proceeding without as thorough a review of the facts and the law as is required to form a conviction that the complaint or response has merit.

2. **Pre-trial proceedings.** A lawyer should use pre-trial procedures, including discovery, solely to develop a case for settlement or trial and not to harass an opponent or delay a case. Whenever possible, stipulations and agreements should be made between counsel to reduce both the cost and the use of judicial time. Interrogatories and requests for documents should be carefully crafted to demand only relevant matter, and responses should be timely, candid and not evasive. Good faith efforts should be made to resolve by agreement objections to matters contained in pleadings, discovery requests and objections.

A lawyer should endeavor to schedule pre-trial procedures so as to accommodate the schedules of all parties and attorneys involved. Agreements for reasonable extensions of time should not be withheld arbitrarily.

Only those depositions necessary to develop or preserve the facts should be taken. Questions and objections at deposition should be restricted to conduct appropriate in the presence of a judge.

3. **Communications with the Court or Tribunal.** A lawyer should speak and write respectfully in all communications with the Court. All papers filed in a proceeding should be as succinct as the complexity of the matter will allow. A lawyer should avoid ex

parte communications with the Court on pending matters, except when permitted by law. Unless specifically authorized by law, a lawyer should not submit papers to the Court without serving copies of all papers upon opposing counsel in such a manner that opposing counsel will receive them before or contemporaneously with the submission to the Court.

4. **Settlement**. A lawyer should constantly evaluate the strength of a client's legal position and keep the client advised. A lawyer should seek to settle any matter at any time that such course of action is determined to be consistent with the client's best interest after considering the anticipated cost of continuing the proceeding and the lawyer's good faith evaluation of the likely result.

5. **Appeal**. A lawyer should take an appeal only if the lawyer believes in good faith that the Court has committed error, or an appeal is otherwise required.

C. ***Out of state associate counsel***. Before moving the admission of a lawyer from another jurisdiction, a Delaware lawyer should make such inquiry as required to determine that the lawyer to be admitted is reputable and competent, should furnish the candidate for admission with a copy these Principles and ensure that the candidate for admission agrees to abide by these Principles.

(3) The Clerk of this Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE COURT:

/s/Randy J. Holland
Justice